

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, GRAHAM ADSIT,
ROGER ANCLAM, WARREN BRAUN,
HANS BREITENMOSER, JUDITH BREY,
BRENT BRIGSON, EMILY BUNTING,
SANDRA CARLSON-KAYE, GUY COSTELLO,
TIMOTHY B. DALEY, MARGARET LESLIE
DEMUTH, DANIEL DIETERICH, MARY LYNNE
DONOHUE, LEAH DUDLEY, JENNIFER ESTRADA,
BARBARA FLOM, HELEN HARRIS,
GAIL HOHENSTEIN, WAYNE JENSEN,
WENDY SUE JOHNSON, MICHAEL LECKER,
ELIZABETH LENTINI, NORAH MCCUE,
JANET MITCHELL, DEBORAH PATEL,
JANE PEDERSEN, NANCY PETULLA,
ROBERT PFUNDHELLER, SARA RAMAKER,
ROSALIE SCHNICK, ALLISON SEATON,
JAMES SEATON, ANN E. STEVNING-ROE,
LINEA SUNDSTROM, MICHAEL SWITZENBAUM,
JEROME WALLACE, DONALD WINTER,
EDWARD WOHL, and ANN WOLFE,

OPINION and ORDER

15-cv-421-jdp

Plaintiffs,

v.

BEVERLY R. GILL, JULIE M. GLANCEY,
ANN S. JACOBS, JODI JENSEN, DEAN KNUDSON,
and MARK L. THOMSEN,

Defendants,

and

THE WISCONSIN STATE ASSEMBLY,

Intervenor-Defendant.

The court granted plaintiffs' motion to compel discovery, thereby requiring Wisconsin Assembly speaker Robin Vos to respond to requests for written discovery and to sit for a deposition. Dkt. 275. Vos now seeks an emergency stay of the court's order. Dkt. 276.

Vos alleges that the discovery sought by plaintiffs would interfere with his duties as a legislator. But he provides nothing specific about his duties or how the ordered discovery would interfere with them. We count on plaintiffs to show due respect to Vos's legislative duties. Plaintiffs have, apparently, shown that respect by scheduling the deposition for May 29, when the legislature is not in session.¹ Vos suggests that the deposition could wait because trial is still two months out, scheduled to begin July 15. But Vos has not suggested when he would be able to sit for a deposition if we granted the stay and our order is affirmed, and the legislature will be back in session for most of June. We are not persuaded that the discovery we have ordered will unduly interfere with Vos's duties, or that the parties have the luxury of waiting indefinitely to conduct that discovery.

The Supreme Court may decide that disputes over partisan gerrymandering are not justiciable. We rescheduled the trial in this matter to account for the possibility that the Supreme Court might make such a ruling during this term. But unless and until the Supreme Court tells us that plaintiffs' case is doomed, we must decide this case with special urgency.

As we explained in our original order, the legislative privilege is a conditional one that sometimes yields to other important interests, and this is such an occasion. Vos's motion for an emergency stay is denied.

¹ The legislative calendar is available at https://docs.legis.wisconsin.gov/2019/related/session_calendar/calendar.

ORDER

IT IS ORDERED that the motion for an emergency stay is DENIED.

Entered May 13, 2019.

BY THE COURT:

/s/ _____
KENNETH F. RIPPLE
Circuit Judge

/s/ _____
JAMES D. PETERSON
District Judge

Judge Griesbach respectfully dissents.

/s/ _____
WILLIAM C. GRIESBACH
District Judge